

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

ALAN L. GALLAGHER,

No. 3:19-cv-01342-JR

Plaintiff,

ORDER

v.

CAPELLA UNIVERSITY INC.,  
and CAPELLA EDUCATION COMPANY,

Defendants.

Alan L. Gallagher  
25261 S. Hwy. 170  
Canby, OR 97013

*Pro se* Plaintiff

P.K. Runkles-Pearson  
Erin M. Burris  
Miller Nash Graham & Dunn LLP  
111 SW Fifth Avenue, Suite 3400  
Portland, OR 97204

Attorneys for Defendants

HERNÁNDEZ, District Judge:

Magistrate Judge Jolie Russo issued a Findings and Recommendation on December 23, 2019, in which she recommended that the Court grant Defendants' motion to dismiss. Plaintiff timely filed objections to the Findings and Recommendation. The matter is now before the Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When a party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1); *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

Plaintiff objected to the Findings and Recommendation because (1) he properly alleged specific facts to support his breach of contract claim; (2) the disclaimers in Defendants' Dissertation Guidebook and Doctoral Manual should not void Defendants' contractual obligations; and (3) he plead sufficient facts to support an inference that Defendants acted in bad faith. Pl. Obj. to F&R, 8–12. The Court carefully considered Plaintiff's objections and concludes that the objections do not provide a basis to modify the recommendation. The Court also reviewed the pertinent portions of the record *de novo* and finds no error in the Magistrate Judge's Findings and Recommendation.

///

///

///

///

///

## **CONCLUSION**

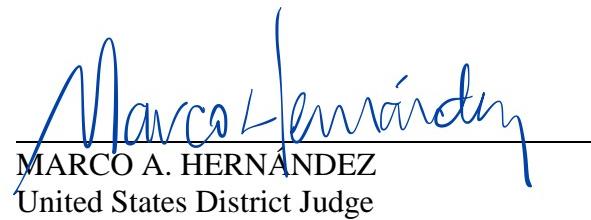
The Court ADOPTS Magistrate Judge Russo's Findings and Recommendation [ECF 26].

Therefore, Defendants' motion to dismiss for failure to state a claim [ECF 15] is granted.

Plaintiff may file a motion to amend his complaint within fourteen days of the date of this Order.

IT IS SO ORDERED.

DATED: 4/1/20

  
\_\_\_\_\_  
MARCO A. HERNANDEZ  
United States District Judge